



OFFICE OF THE POLICE COMMISSIONER
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June 3, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Michael Konatsotis**
Tax Registry No. 920094
30 Precinct
Disciplinary Case No. 2012-7901

The above named member of the service appeared before Assistant Deputy Commissioner Amy J. Porter on November 18, 2013 and was charged with the following:

DISCIPLINARY CASE NO. 2012-7901

1. On or about January 1, 2011 through March 4, 2011, while assigned as the Traffic Safety Officer of the 30th Precinct, [Respondent] did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department to wit: said Police Officer Konatsotis failed to scan approximately 800 to 1,000 summonses into the Electronic Summons Tracking Systems (ESTS).

P.G. 203-10, Pages 1, Paragraph 5

**PROHIBITED CONDUCT
GENERAL REGULATIONS**

In a Memorandum dated March 31, 2014, Assistant Deputy Commissioner Amy J. Porter, found Respondent Konatsotis Guilty of Specification No. 1, in Disciplinary Case No. 2012-7901. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

After considering all of the evidence presented and Respondent Konatsotis's otherwise good service record with the Department, the disciplinary penalty shall be reduced to the forfeiture of five (5) vacation days.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

March 31, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Michael Konatsotis
Tax Registry No. 920094
30 Precinct
Disciplinary Case No. 2012-7901

The above-named member of the Department appeared before me on November 18, 2013, charged with the following:

1. On or about January 1, 2011 through March 4, 2011, while assigned as the Traffic Safety Officer of the 30th Precinct, [Respondent] did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department to wit: said Police Officer Konatsotis failed to scan approximately 800 to 1,000 summonses into the Electronic Summons Tracking System (ESTS).

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
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The Department was represented by Jessica Brenes, Esq., Department Advocate's Office, and Respondent was represented by Michael Martinez, Esq., Worth, Longworth & London, LLP.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 16-year member of the Department, is currently assigned to the 30 Precinct. Originally Respondent worked as the 30 Precinct's traffic safety officer. He was then temporarily transferred to the Harbor Unit. As a result of these charges, Respondent was reassigned to the 30 Precinct where he now works patrol. Respondent had spent seven months with the Harbor Unit. There, he received training on boat operation and engineering, firefighting techniques, radar, and water rescue. He is also credited with two rescues and successfully putting out a boat fire.

In 2005, Respondent first began his assignment as the traffic safety officer. His responsibilities included compiling statistical breakdowns of parking, moving, and criminal court summonses, compiling data related to police accident reports, and providing analysis through statistical breakdowns used in meetings called by the Chief of Transportation's office. On a typical day he was responsible for compiling statistics for 50 to 100 summonses, and sometimes there were as many as 300 summonses in a day. He always worked at a high standard and his supervisors were pleased with his work. In addition to his duties as traffic safety officer, Respondent was required to adhere to All-Out. This meant he had to work patrol one day a week.

In 2010, a Department interim order was issued requiring all summonses to be individually scanned into the Electronic Summons Tracking System (ESTS).

[Department's Exhibit (DX) 1 is a copy of 2010 Department interim order 32]. The order stated that all summonses will now contain a bar code, will be scanned and electronically recorded into the ESTS database when issued to an officer, and scanned again into ESTS when completed and returned.

If summonses were un-scannable they would have to then be manually entered into the ESTS database. Respondent explained manually entering un-scannable summonses into the ESTS was an extremely tedious task. After being scanned or manually entered, the summonses were to be placed in envelopes and sent to the respective borough traffic safety office the next day along with a transmittal sheet.

The order stated that "desk officers are responsible to ensure all summonses received during their tour of duty are entered into ESTS, prior to the completion of their tour." Although Respondent was not a desk officer, this responsibility was delegated to him. Respondent reasoned that the order made entering the summonses the responsibility of a desk officer because summonses were being issued and returned continually and because a desk officer is always present in the precinct and available to scan.

When the job was delegated to Respondent, however, scanning could occur only when he was at work, which was at most four days a week. Respondent believed the duty to scan summonses was secondary to his analytical work. He thought it was more important to provide his superior officers with accurate statistics so that they could be prepared for meetings.

Sometimes Respondent fell behind in scanning the returned summonses and sending them out to Patrol Borough Manhattan North (PBMN). This usually occurred during the weeks Respondent had to prepare for a meeting. When this happened, Respondent notified his supervisors, Sergeant Welsh or Lieutenant Crowley, and received assistance. However, Welsh was later re-assigned to patrol and Crowley retired.

There came a time when Respondent scanned and sent approximately 700 summonses, an unusually high number, to the PBMN traffic safety office. Sergeant Ellis from the PBMN traffic safety office contacted Respondent to find out why. Respondent told Ellis that he had fallen behind in scanning the summonses. Respondent also still had un-scanned summonses in his possession. Then the Internal Affairs Bureau (IAB) was notified and the investigation started. During the investigation, Respondent learned that only the desk officer was supposed to operate the scanner. Today, it is the desk officer at the 30 Precinct who scans the summonses.

On cross-examination, Respondent acknowledged that initially he was able to scan the summonses in a timely manner. However, over time the personnel in the traffic safety office decreased. Consequently, Respondent began to receive more responsibilities. Several issues contributed to the summonses becoming backlogged. First, the 30 Precinct was assigned a large class of Impact officers, resulting in significantly more summonses. Second, he was now being ordered to perform more construction site inspections and school bus initiatives. These initiatives would happen weekly. Sometimes they would take Respondent out of the office for the whole day and sometimes they could be completed in a few hours. Also, Respondent still had to participate in All-Out.

Sometimes Respondent would ask for or was given help to complete his duties by Crowley, the administrative lieutenant, or Welsh, the former traffic safety supervisor. He reiterated these requests came usually during the times he had an increased workload to prepare for meetings.

However, Respondent did not request help between January 2011 and March 2011 when the summonses began to become backlogged. Once Crowley retired and Welsh was re-assigned, Respondent stopped requesting assistance. He did not approach his new supervisor, Sergeant Sanders, for help. Sanders worked similar tours as Respondent and was available for Respondent to speak with. Because Respondent believed she was busy with other responsibilities he did not tell her about the backlogged summonses. On 2013, Sanders pled guilty to charges stemming from this incident. [See Court Exhibit (CX) 1].

Respondent testified the un-scanned summonses were kept in a plastic United States postal bin in the traffic safety office under his desk. The un-scanned summonses filled the bin to the carry line. The traffic safety office was located in the basement level of the 30 Precinct and kept locked. While Captain Davidson, the executive officer, and Sanders did not share an office with Respondent, he testified both were aware of Respondent's responsibilities.

Amid the investigation Respondent approached the precinct's commanding officer and asked to leave the traffic safety position. He asked to leave because he felt the IAB's findings were unfair. [Respondent's Exhibit (RX) A is a two-page IAB worksheet summarizing their findings]. The commanding officer expressed his

satisfaction with the Respondent's quality of work and his desire for him to remain in the traffic safety office but eventually permitted the change of assignment.

On redirect examination, Respondent testified that he did not fall behind in his other duties as traffic safety officer. Respondent reiterated he believed it was more important to finish his analytical duties for the command before scanning the summonses.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on December 8, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent's attorney argued that Respondent had to determine his own work load priorities and that scanning summonses could not take priority over his responsibilities as traffic safety officer. Respondent was proud of his work and being given more responsibility. Thus, he was reluctant to admit that the work was too much and to do so would be contrary to his Department training.

Respondent testified that when he fell behind in scanning summonses, he asked for help from Lieutenant Crowley and Sergeant Welsh. But after January 1, 2011, which is when the summonses became backlogged, Crowley had retired and Welsh had been re-assigned. Respondent never approached his new supervisor, Sergeant Sanders, for help. While Respondent indicated that Captain Davidson was aware of the backlog of

summonses, he never explicitly told the captain that there was a backlog or that he needed help.

Respondent was concerned that if the traffic stats input was not his priority, the result would reflect negatively on his command. However, failing to advise his supervisor that he was falling behind in summonses also had serious negative consequences. Respondent's supervisor, Sergeant Sanders had to plead guilty to failing to ensure that Respondent properly processed the summonses.

As the Department Advocate argued, Respondent had a responsibility to clearly notify his supervisors about the serious backlog with the summons intake. His neglecting to do this caused 800 to 1,000 summonses not to be scanned into the tracking system.

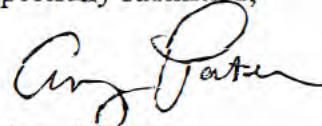
The Department Advocate recommended a 30 day penalty, but conceded that Respondent was assigned an impossible task. As Respondent's attorney argued, under the new order establishing a new tracking system, the desk sergeant was supposed to be scanning summonses.

Sergeant Sanders pled guilty to failing to ensure that Respondent properly processed summonses resulting in a delay in the processing of summonses, to failing to ensure that members of the 30th Precinct were properly trained about the order instituting the electronic summons tracking system, and to failing to identify the training needs of the 30th Precinct. Sanders also pled guilty to failing to ensure that proper notifications were made and witnesses interviewed about an incident in which a teenager allegedly abused his young sister. The negotiated plea for Sanders' combined charges, which was approved by the Police Commissioner, was a 35 day penalty. [CX 1].

Because the sergeant was primarily responsible for Respondent being mistakenly assigned and for ensuring that the summonses were being scanned, because the Department generally holds supervisors to a higher standard and because the sergeant's penalty covered additional misconduct, the Department's recommended penalty for Respondent is excessive. Respondent was carrying a heavy workload, did not fall behind in his responsibilities as a traffic safety officer and has an excellent record with no prior formal discipline.

Therefore, it is recommended that Respondent forfeit 10 vacation days.

Respectfully submitted,



Amy J. Porter

Assistant Deputy Commissioner Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MICHAEL KONATSOTIS
TAX REGISTRY NO. 920094
DISCIPLINARY CASE NO. 2012-7901

In 2013 and 2011, Respondent received ratings of 4.0 "Highly Competent" on his annual performance evaluations. In 2012 he received a rating of 4.5 "Highly Competent/Extremely Competent." Respondent has one medal for excellent police duty and one medal for meritorious police duty.

[REDACTED]

Respondent has no prior formal disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner Trials